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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,361	03/12/2004	Trung T. Doan	009001 AGS/TBSS	6366
61285 7590 07/09/2008 JANAH & ASSOCIATES, P.C. 650 DELANCEY STREET, SUITE 106 SAN FRANCISCO, CA 94107				
EXAMINER				
BAND, MICHAEL A				
ART UNIT		PAPER NUMBER		
1795				
NOTIFICATION DATE		DELIVERY MODE		
07/09/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JAOFFICE@JANAH.COM

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/799,361

Applicant(s)

DOAN ET AL.

Examiner

MICHAEL BAND

Art Unit

1795

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 3-24, 26-28, 30-32, 34-36 and 38-40.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Alexa D. Neckel/
Supervisory Patent Examiner, Art Unit 1795

Continuation of 3. NOTE: Present claims with new limitations requiring further consideration, such as forming a coating comprising the metal in the sputtered depression and deposition target.

Continuation of 11. does NOT place the application in condition for allowance because:

1. On p. 11-15, the Applicant argues that Vukanovic et al does not teach the claimed step of providing a pre-sputtered surface of a target comprising a sputtered depression. The Applicant also argues that Vukanovic et al does not teach the step of injecting a pressurized gas into the process zone to direct liquefied metal into the sputtered depression. The Applicant also argues that coating substrates is not the same as partially filling a sputtered depression.

The Examiner respectfully disagrees. With regards to Vukanovic et al not teaching "providing a pre-sputtered surface of a target comprising a sputtered depression" and "injecting a pressurized gas into the process zone to direct liquefied metal into the sputtered depression", the Examiner submits the following: "Vukanovic et al further discloses that the coating material is deposited onto the surface of the substrate (col. 3, lines 8-13), where the substrate may be a semiconductor (col. 3, lines 14-23). While Vukanovic et al does not suggest the substrate (i.e. used target) have depressions or gaps (i.e. sputtered surfaces), it is either inherent or obvious that a semiconductor substrate (i.e. used target) possess this specified feature as evidenced by Miyazaki (US Patent No. 5,595,938; figs. 1-4) and Lee et al (US Patent No. 7,192,335; figs. 1-2). Furthermore it is well known that a sputter target (i.e. substrate) is eroded unevenly during use, leading to depressions on the target surface". In regards to directing liquefied metal into sputtered depression of the target, the Examiner has provided the following evidence: "Vukanovic et al further discloses that the coating material is deposited onto the surface of the substrate (col. 3, lines 8-13), where the substrate may be a semiconductor (col. 3, lines 14-23)" in addition, "Vukanovic et al further discloses that the coating material may be placed on or in a cathode, where it is vaporized by the heat of the cathode and carried into the plasma region by a carrier gas (col. 4, lines 4-9). Vukanovic et al describes how the coating materials are introduced into the region of the electrodes in a condensed state, such as a wire and volatilized by the heat generated at or on the cathode (col. 4, lines 15-19) and if conductive (i.e. metal) as a sacrificial (i.e. consumable) cathode (col. 4, lines 19-22). Vukanovic et al lists suitable coating materials as metals (col. 4, lines 25-33). Vukanovic et al also describes how the plasma material is introduced into the arc plasma and positioning a substrate material proximate to the arc plasma, whereby said coating material formed by the arc plasma contact the substrate to form a coating (col. 3, lines 8-13). It is well known that for a solid to be vaporized, the solid transitions from a solid state to a liquid state, thus the metal is liquefied". Furthermore, semiconductors are well known to have recesses, depressions, trenches, or channels which are filled to form the semiconductors wiring". With regards to coating a substrate not the same as partially filling a sputtered depression, the Examiner has shown a substrate to have depressions which are then either partially or totally filled. Furthermore the recent KSR International Co. v. Teleflex Inc., 550 U.S.--, 82 USPQ2d 1385 (2007) has stated that use of known technique (i.e. filling a depression on a substrate/target) to improve similar devices (methods, or products) in the same way is obvious to one of ordinary skill. KSR International Co. v. Teleflex Inc., 550 U.S.--, 82 USPQ2d 1385 (2007) also states that known work in one field of endeavor (i.e. filling a depression on a substrate as taught by Vukanovic et al) may prompt variations of it for use in either the same field or a different one (i.e. filling a depression on a used sputter target) based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art.